IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
LANG et al.

Atty. Docket No. TRG-299

Title: Medical Electrode

Serial No.: 10/030,519

Art Unit: 3762

Filed: October 29, 2001

Examiner: Bockelman

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

Sir:

I, Burrhus Lang, do hereby declare and say that:

1. I have been an employee of Leonhard Lang KG since 1989. I currently hold the position of Chief Executive Officer (Managing Director) and through my position have specific personal knowledge of all of the company's inventions including all aspects of the invention described and claimed in U.S. Patent Application Serial No. 10/030,519 ("the '519 application), of which I am a named inventor.

2. Leonhard Lang KG manufactures and sells medical electrodes, and is the 100% owner of the '519 application entitled "Medical Electrode." I have acquired considerable expertise in the medical electrode field through my employment with Leonhard Lang.

3. Attached hereto is an article entitled, "NUMERICAL FIELD CALCUTAION OF PATIENT RETURN ELECTODES IN ELECTOSURGERY."

The article was published in "Proceedings of Biomedizinische Technik," Volume 47, Ergänzungsband 1, Teil 1,274-277, 2002. I know one of the co-authors, J. Raiser, who is an employee of a customer that purchases products from Leonhard Lang KG. Leonard Land KG produces electrodes made in accordance with the teachings of the '519 application (electrodes with circumferential neutral rings) and sells them to the customer.

4. I have read the article and can confirm that the neutral-ring-bearing electrode described in the article—an electrode with a "circumferential neutral ring ('equipotential ring')" –is the same electrode described and claimed in the '519 application.

5. The test results referenced in the article clearly establish that an electrode with a neutral ring significantly reduces heating at the skin surface and exhibits a more symmetrical heating pattern (homogeneous heat distribution) than a conventional electrode that lacks a neutral ring. The observed symmetrical heating pattern is the direct result of the neutral ring that equalizes current distribution about the electrode. An electrode having a symmetrical current distribution pattern produces a symmetrical heating pattern when a current is applied to the electrode. I am not aware of any conventional electrodes that produce results similar to those achieved with a neutral-ring-bearing electrode.

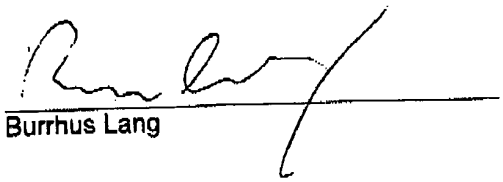
6. I have read the specification and pending claims of the '519 application and have a thorough understanding of the claimed invention. I have also reviewed the August 14, 2006 office action as well as Canadian Patent No. 1,218,642.

7. I do not agree with the characterization of the '642 patent in the office action. The '642 patent addresses the problem of asymmetrical heat distribution

produced by an electrode, but does so in a completely different way from that shown, described and claimed in the '519 application. The electrodes described in the '642 patent are consistently described as containing multiple discreet conductive segments, each of which is attached to a resistor to control the amount of current flowing through the conductive segment. The values of the resistors are varied depending on the location of the segment, e.g., center, peripheral, etc., so that the current flow through each segment can be equalized. Support for my position is found at page 2, line 24 ("*each* section being connected to a separate resistor"), and in the description of the embodiments shown in FIGS. 3 and 4 in which each conductive segment has a connector link that connects the conductive segment to a connecting tab, page 6, line 17 to page 7, line 22. It is an unwarranted distortion of the '642 patent to suggest that any conductive segment not be attached to a connecting tab. Indeed, one would have modify the electrodes of the '642 patent in a way that departs from the consistent teachings of the '642 patent to arrive at the characterization made of the '642 patent in the office action.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Signed:



Burrhus Lang

Date: December 14, 2006